

PHILLIPS, McLAUGHLIN & HALL, P.A.

JOHN C. PHILLIPS, JR.
LISA C. McLAUGHLIN
JAMES P. HALL
DAVID A. BILSON***
MEGAN C. HANEY
TODD L. GOODMAN

ATTORNEYS AT LAW
PENNSYLVANIA AVE. AND BROOM ST.
1200 N. BROOM STREET
WILMINGTON, DELAWARE 19806

(302) 655-4200
(302) 655-4210 (F)
pmhdelaw.com

ALSO MEMBER OF
*PENNSYLVANIA BAR
**NEW JERSEY BAR
+MARYLAND BAR

September 23, 2025

VIA CM/ECF & HAND DELIVERY

The Honorable Christopher J. Burke
J. Caleb Boggs Federal Building
844 N. King Street, Unit 28, Room 2325
Wilmington, DE 19801-3555

RE: National Steel Car Limited v. FreightCar America, Inc.,
C.A. No. 24-594-JLH-CJB

Dear Judge Burke:

Defendant FreightCar America, Inc. writes to request the scheduling of a discovery teleconference.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer (by videoconference) on the following date(s): February 20-21 and 27, 2025; July 10 and 24, 2025; and September 2, 2025.

Delaware Counsel: Andrew Russell (NSC); Jack Phillips and/or David Bilson (FreightCar America)

Lead Counsel: Kenneth Sheehan, Safet Metjahić, Robert Keeler, and/or Kevin Adams (NSC); Brian Horne, Sean Murray, and/or Justin Gillett (FreightCar America)

The disputes Defendants believe require judicial attention are listed below. Plaintiff National Steel Car Limited (“NSC”) believes that the issues identified by Defendants below have been resolved or are not ripe for Court intervention at this time.

Disputes raised in the July 18, 2025 joint letter (D.I. 87). The four disputes listed below were among seven disputes the parties previously identified in their July 18, 2025 letter. After conferring pursuant to the Court’s July 21, 2025 order (D.I. 90), the parties deferred their motion in an attempt to resolve their disputes (D.I. 92). While the parties were able to table or resolve some of their disputes, Defendants believe the following four disputes require judicial attention.

- NSC’s response to FreightCar America Interrogatory No. 6 regarding improvements in NSC’s allegedly patent-practicing railcars.
- Whether NSC may withhold certain categories of documents exchanged between NSC and

Canadian National (FreightCar America RFPs 16-17).

- Whether NSC may withhold documents regarding the design and shipment of its jenny railcars that NSC contends do not practice the asserted patents (FreightCar America RFPs 39 and 60).
- Whether NSC may withhold documents regarding its inspections of FreightCar America railcars (FreightCar America RFPs 25 & 55) and NSC's communications about FreightCar America and other railcar manufacturers (FreightCar America RFPs 14, 24) that it contends relate to railways other than the DMR.¹

New disputes. The following disputes have arisen since the parties' July 18, 2025 letter.

- NSC's response to FreightCar America Interrogatory No. 15 regarding failure to disclose NSC's ore car to the Patent Office.
- Whether NSC may refuse to search its ESI using certain search terms (Terms 1-2, 6, and 8) that FreightCar America selected pursuant to Default Standard ¶ 5.b.

Respectfully,

/s/ David A. Bilson

David A. Bilson (#4986)

cc: All Counsel of Record (by CM/ECF & email)

¹ The DMR is the Duluth, Missabe, and Iron Range railway.